

## **REMARKS/ARGUMENTS**

Applicant responds herein to the Office Action dated August 11, 2005.

Claims 1, 3-5, and 7-8 were rejected under 35 U.S.C. §102(b) as being clearly anticipated by Avitall, U.S. Patent No. 5,555,883. Reconsideration of the rejection is respectfully requested.

The applicant has canceled claims 1-9 (without prejudice) and has replaced the same with newly presented claims 10-19.

The claims in the application provide that the central axis of the loop becomes tilted relative to the central axis of the actuating member "by an elastic deformation of the elastic deformable portion, due to a returning force, when the treatment section and the distal end of the actuating member are extended from the opening of the sheath". This effect, that the loop becomes tilted relative to the axis of the sheath, is readily observable in the drawings of the instant specification and fully described in the text of the specification. Respectfully, none of the applied references teach this feature of the claimed invention.

More specifically, in the present invention, the loop is formed when the treatment section is extended, i.e., pulled out, from the opening of the sheath. Secondly, when the loop emerges from the opening, its central axis becomes tilted relative to the central axis of the elongated actuator naturally (without any external force being applied thereto). This is defined in the claims through the recitation that the elastic deformation is due to a "returning force". In other words, the treatment apparatus of the present invention achieves the above-mentioned tilting effect by the built-in elastic returning force of the deformable portion, except for the device of independent claim 18.

The snare that is described and disclosed in Avitall has deflection control wires 24 and 26 (or 124 and 126) which control the direction of the tilt of the loop. These control wires allow the direction of the loop to be changed in any desired direction by operating the wires or, in other words, through the application of an external force. This is quite different from the present invention, where the loop itself has the built-in return force that causes the tilting. Thus, Avitall does not disclose the above features recited in the claims of the present application.

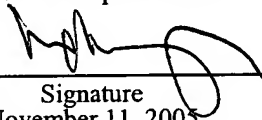
None of the other references cited in the Official Action discloses or suggests the above-mentioned features of the instant claims.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on November 11, 2005:

Max Moskowitz

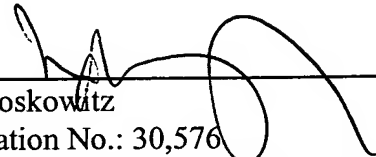
Name of applicant, assignee or  
Registered Representative



Signature  
November 11, 2005

Date of Signature

Respectfully submitted,



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